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CHIEF CLERK'S OFFICE

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4 The Illinois Department of)
5 Commerce and Economic Opportunity)
6)
7 2008 – 2010 Energy Efficiency)
8 And Demand Response Plan)
9 Filed on November 15, 2007)
10

Docket 07-0541

11
12 **Natural Resources Defense Council Exhibit 1.0**

13 **Direct Testimony of Henry Henderson**

14
15 On Behalf of

16 The Natural Resources Defense Council
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24 Submitted: December 15, 2007

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DIRECT TESTIMONY OF HENRY HENDERSON

27 **Q. Please state your name and business address.**

28 A. My name is Henry Henderson. My address is 101 North Wacker Drive, Suite 609,
29 Chicago, IL, 60606.

30 **Q. Please identify your employer and your job title**

31 A. I am employed by the Natural Resources Defense Council, where I am Director of the
32 Midwest Regional Office.

33 **Q. What are your responsibilities in this position?**

34 A. I am responsible for overseeing and directing policy, programs and management of the
35 Natural Resources Defense Council's Midwest Office. NRDC's mission is to provide
36 fact-based advocacy, including law, science and policy action to solve environmental
37 problems. A key focus on NRDC's Midwest Office is energy policy and regulation,
38 including renewable energy, energy efficiency, coal, biofuels and global warming.

39 **Q. Do you have previous professional experience that relates to the testimony you here**
40 **provide?**

41 A. From 2000 – 2006 I was a partner at Policy Solutions, Ltd., based in Chicago, where I
42 provided policy, regulatory and economic analysis on environmental programs, policy,
43 legislation and regulations. I addressed energy, global warming, and government
44 relations, among other matters. From 1992 – 1998, I established and led the newly

45 created Department of the Environment for the City of Chicago. My areas of
46 responsibility included Chicago's energy policies, deregulation and enforcement of
47 regulations. From 1998 – 2005 I was a lecturer at the University of Chicago on
48 Environmental Law and Policy.

49 **Q. What is your educational background?**

50 A. I received a Bachelor of Arts degree from Kenyon College in Gambier, Ohio and a J.D.
51 from Washington University School of Law in St. Louis, Missouri.

52 **Q. On whose behalf are you testifying?**

53 A. I am testifying on behalf of the Natural Resources Defense Council (NRDC). NRDC is a
54 non-profit membership organization with 1.2 million members and on-line activists
55 nationwide; 217,500 members and on-line activists in eight Midwest states¹ and 20,000
56 in Illinois. NRDC has a long-standing interest in promoting energy efficiency and other
57 demand-side resources as viable and cost-effective alternatives to conventional supply-
58 side generation resources such as coal and nuclear plants.

59 **Q. What is the purpose of your testimony?**

60 A. The purpose of my testimony is to provide testimony on the Department of Commerce
61 and Economic Opportunity's (DCEO) 2008 – 2010 Energy Efficiency and Demand
62 Response Plan and related issues.

63 **Q. Do you have comments about DCEO's proposed programs?**

¹ The states are: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin.

64 A. I recommend that DCEO add two additional programs:, 1. a Codes and Standards
65 Enhancement Program, and 2. a Statewide Energy Efficiency Web Site with information
66 about energy efficiency, including tools, training, and program information. I describe
67 each recommendation further below.

68 Codes and Standards Enhancement Program

69 I recommend that DCEO include a Codes and Standards Enhancement Program as part of
70 its market transformation activities. Through a Codes and Standards Program, DCEO
71 could monitor the market for technologies that are achieving market acceptance and
72 becoming less expensive that could be moved into code. It is possible to calculate and
73 claim energy savings from modifying codes to require efficient technologies.
74 Furthermore codes and standards lead to market transformation, which is one of DCEO's
75 goals.

76 Statewide Energy Efficiency Web Site

77 Building awareness of energy efficiency and energy efficiency technologies will be an
78 important element of a successful energy efficiency portfolio. I recommend that the
79 portfolio administrators support development of a statewide web site that contains
80 information about energy efficiency measures, tools and resources, training, and a
81 description of all energy efficiency programs that are available statewide. Given
82 DCEO's role in promoting "market transformation" activities (DCEO Testimony, Feipel,
83 p. 12), NRDC recommends that DCEO be given the responsibility for creating and
84 maintaining a statewide energy efficiency web site, in coordination with ComEd and
85 Ameren.

86 Q. **Do you have any comments about the Stakeholder Advisory Process?**

87 A. I participated in the stakeholder collaborative process that led to the development of the
88 Energy Efficiency and Demand Response Plans. I appreciated the opportunity to provide
89 input, and believe that a meaningful, ongoing Advisory Process as program details are
90 finalized, and programs are implemented and evaluated, is important for maximizing
91 benefits from the demand-side portfolio.

92 I recommend that the Commission authorize a Demand-Side Stakeholder Advisory
93 Process for all three portfolio administrators (ComEd, DCEO and Ameren). I further
94 recommend that the Commission authorize the following process elements.

95 1. Process is Advisory: The three portfolio administrators are accountable for achieving the
96 portfolio goals. Thus, they should have flexibility and discretion to manage the portfolio
97 and programs to meet their statutory obligations and any Commission-established policy
98 objectives and guidelines for the demand-side programs. Advisory Process members
99 should not be vested with decision-making authority but instead should serve as advisors
100 to improve the demand-side portfolio performance.

101 2. Statewide Combined Advisory Process: The Advisory Process should include all three
102 program administrators, ComEd, Ameren and DCEO. A separate process for each
103 administrator will not lead to statewide consistency and will be much more expensive for
104 stakeholders to participate in. Some program issues will be utility-specific and should be
105 handled in separate utility-specific working groups.

106 3. Required Notice and Comment for Certain Issues: To maximize the benefits from the
107 demand-side portfolio, the portfolio administrators should seek input from the
108 knowledgeable and dedicated community of stakeholders before making certain changes
109 to the portfolio or programs. Stakeholders should be given notice and the opportunity to

comment on key issues that could impact portfolio costs or savings as set forth in Attachment A, appended hereto.

4. Meeting Format: So that stakeholders have time to meaningfully review issues that are before them, I recommend that a meeting agenda and meeting materials be circulated a specified number of days before the Advisory Process meetings.
 5. Advisory Process Comment Tracking and Response System: After each meeting, the meeting facilitator should summarize issues raised, proposed action items and stakeholders questions. The meeting facilitator should work with the portfolio administrators to prepare responses to all items and identify which items caused the administrators to modify its portfolio or programs. The Comment Tracking and Response System will help demonstrate to stakeholders that their participation resulted in meaningful discussions and change.
- In addition to the elements above that I recommend the Commission formally authorize, I offer additional comments on the Advisory Process for the portfolio administrations and other parties to consider as the Advisory Process moves forward. The additional comments are set forth in Attachment A.

Q. Do you have any comments about statewide consistency for the demand-side portfolio?

A. Many elements of the demand-side portfolio can be addressed consistently in Illinois. Consistency serves to minimize costs and customer confusion, ease administrative burden on the Commission and other stakeholders, and produces energy savings that are easier to document. I recommend that Commission authorize the portfolio administrators to seek statewide consistency for the following elements of the demand-side portfolio, and

consider others that stakeholders and Commission staff raise: 1. Statewide Energy Efficiency Web Site; 2. statewide public cost-effectiveness calculator and inputs and 3. statewide program data tracking and reporting system.

Statewide Energy Efficiency Web Site

As described above, I recommend that DCEO design and implement a Statewide Energy Efficiency and Demand Response web site, with input from ComEd and Ameren, as part of its market transformation, training and outreach goals to help build “brand awareness” of energy efficiency in IL.

Statewide, Public Cost-Effectiveness Calculator and Inputs

The portfolio administrators used a proprietary tool to analyze proposed program savings. (ComEd Exhibit 1.0, p. A-6, fn 1.) For the future, it will be important to develop a public, transparent cost-effectiveness tool that the portfolio administrators, ICC staff, program implementers and other interested parties can use to evaluate prospective program and portfolio cost-effectiveness, monitor cost-effectiveness as the programs and portfolios are implemented, and develop new program ideas that may provide greater savings than the proposed programs.

I recommend that the portfolio administrators work together to develop a cost-effectiveness tool for measure-level, program and portfolio cost-effectiveness with input from the Advisory Process. Once the tool is developed, it should be available to the public for all parties to use to develop and evaluate proposed programs and projects.

Similarly, given the absence of data for IL, the utilities reasonably used measure data from other jurisdictions. However, given the size of energy efficiency program expenditures in IL, I recommend that the portfolio administrators develop and agree to

156 use common measure savings and cost values for common measures. The measure
157 values can be updated once IL-specific EM&V results are produced. I also recommend
158 that the portfolio administrators develop a common approach for documenting savings
159 for less common measures so that staff and interested parties can review whether the
160 proposed measure-level savings and costs seem reasonable.

161 Statewide Program Data Tracking and Reporting

162 I recommend that the three portfolio administrators use the same program data tracking
163 and reporting tool so that the portfolio, program and measure-level data can be reviewed
164 and evaluated using common metrics and a common process. A common data set and
165 reporting format will ease the burden on ICC staff and other interested parties and lower
166 data tracking and reporting costs.

167 Consult Stakeholders on Other Aspects of the Demand-Side Portfolio that Should be
168 Addressed Statewide

169 I recommend that the portfolio administrators seek input from stakeholders on other
170 elements of the demand-side portfolio that should be statewide consistent, including and
171 in addition to those that are described in these comments.

172 Q. **Do you have any comments on the portfolio administrator's requests for broad**
173 **flexibility to modify the proposed programs after program approval?**

174 A. All three portfolio administrators request extremely broad flexibility to modify the
175 proposed programs after Commission approval, including the flexibility to shift funds
176 between programs. I support administrator flexibility to respond to market conditions
177 within certain guidelines. However, the ICC program approval process is meaningless if
178 the flexibility is unlimited. Thus, I recommend that the ICC should provide

administrators clear guidelines about what program and portfolio changes are appropriate without seeking ICC approval, and what changes require either notice or comment to the Advisory Stakeholder Process or the Commission. My recommendations on areas where the Advisory Process stakeholders be given notice and the opportunity to comment are set forth in Attachment A. I recommend that the ICC flexibility guidelines cover at least the following topics:

- Shifting budgets between program
- Adding or deleting a program
- Adding or deleting measures

Q. Do you have comments on how the 3% Evaluation, Measurement and Verification budget should be spent?

A. A 3% budget for EM&V is small to document program impacts, particularly for a new suite of programs. Given the importance of documenting savings to verify whether the portfolio administrators have met their statutory goals, I recommend that ICC rule that the EM&V budget can only be spent to document impacts.

I agree that other studies that traditionally fall under the EM&V framework are important, such as potential studies and market assessments. However, other funds should and can be used for potential studies and market assessments, such as monies designated for program marketing, since potential studies and market assessments can help inform sound program design and effective program marketing. I recommend that the ICC rules that EM&V funds can only be used to document savings from programs.

Q. Do you have any recommendations on the energy efficiency and demand response regulatory framework?

202 A. For the demand-side portfolio to become a reliable resource and replace conventional
203 supply, effective government oversight of the portfolio is necessary. A robust regulatory
204 framework also promotes accountability, transparency and consistency, will help
205 maximize available cost-effective savings. I recommend that ICC direct staff to convene
206 a workshop that solicits comments from interested stakeholders about the attributes of
207 and appropriate procedural vehicle for developing an effective regulatory framework for
208 the demand-side portfolio. The workshop content and agenda should also reflect
209 recommendations from the recent Midwestern Governor's Association 2007 Energy
210 Summit on the demand-side portfolio.

211 Q. **Do you have any recommendations about the frequency and content of reports to**
212 **the Commission on portfolio and program progress?**

213 A. Regular reporting is important for several reasons. First, reporting reveals whether the
214 portfolio and programs are on track for meeting statutory goals and other policy
215 objectives, such as ensuring that low-income households are receiving services in
216 proportion to their share of total annual utility revenues in IL. Second, regular reporting
217 helps with portfolio risk mitigation. For example, if a large percentage of the portfolio
218 funds are being used for any one measure, the risks that the portfolio will not produce
219 expected savings increase if the savings from that measure turn out to be less than
220 forecast based on post-program EM&V. Third, regular reporting will help identify
221 programs that are not performing as expected and need mid-course corrections. Finally,
222 regular reports will help ensure that funds are being spent prudently. If funds are being
223 spent but savings are not produced, this fact might indicate that funds are not being
224 prudently spent.

225 I recommend that the Commission develop a regular reporting schedule, including
226 monthly, quarterly and annual reports that contain increasing levels of detail, as follows:

- 227 • Monthly Reports: I recommend a one-page summary that lists spending and
228 energy savings (including program commitments) by program.
- 229 • Quarterly Reports: I recommend cumulative savings and expenditures by
230 program, savings and expenditures by customer class (such as residential, low-
231 income, commercial, industrial, “public” customers such as schools, local
232 government and municipal corporations), and savings by end use.
- 233 • Annual Report: In addition to information I recommend be included in the
234 quarterly reports, I recommend a narrative description of successes and
235 challenges by program, discussion of programs and areas where the three
236 portfolio administrators are working together statewide to ensure consistency
237 where doing so reduces customer confusion, costs, and eases administrative
238 burdens on the ICC and other stakeholders, and the Advisory Process Comment
239 Tracking and Response System.

240 **Q. Do you have any comments on how the Commission should provide oversight for**
241 **program costs to ensure program funds are being used prudently?**

242 **A.** Program success and measure penetration are influenced by the magnitude of the
243 incentives that customers receive and the overall amount of the program incentive
244 budget. In general, the more money allocated to incentives, the more successful the
245 program will be. In contrast, program administrative costs do not necessarily correlate
246 with improved program performance. Furthermore, in other jurisdictions, energy

efficiency administrative costs have been used to cross-subsidize activities that don't contribute to energy efficiency program success.

I recommend that the Commission identify, then define, a few broad cost categories for energy-efficiency program expenses. Four cost categories that would capture key distinct portfolio and program activities are: administration, implementation, marketing and outreach, and incentives. I recommend that the Commission review administrative costs to assess whether they are necessary and prudent.

Once cost-categories are defined, I recommend that the Commission monitor administrative costs to ensure energy efficiency program dollars are spent to maximize benefits from the demand-side portfolio and are not used to cross-subsidize other activities.

Do you have any concluding remarks?

To summarize, NRDC recommends that the Commission approve DCEO's Energy Efficiency and Demand Response Plan that is before it so that the proposed programs can move forward and start producing energy savings for the State of Illinois.

Furthermore, I recommend that DCEO consider adding two new programs; 1. A Codes and Standards Enhancement Program and 2. A Statewide Energy Efficiency Website implemented by DCEO in consultation with Ameren and ComEd.

Furthermore, in the order approving the Plans, I recommend that the Commission:

1. Authorize a Stakeholder Advisory Process, including the following elements:

- Process is advisory
- Statewide combined Advisory Process;
- Requirement of notice and comment for certain issues

270 • Meeting format

271 • Advisory Process Comment Tracking and Response System

272 2. Authorize the portfolio administrators to seek statewide consistency when doing so

273 would reduce costs and customer confusion, and reduce administrative burdens on the

274 ICC staff and interested stakeholders, including: a public and consistent cost-

275 effectiveness calculator, measure input values, statewide EE website and program data

276 tracking and reporting.

277 3. Adopt rules that govern what flexibility portfolio administrators have to modify the

278 portfolio and programs after Commission approval of the Plans that address the following

279 portfolio and program changes:

280 • Shifting budgets between programs

281 • Adding or deleting a program

282 • Adding or deleting measures

283 3. Rule that EM&V funds can only be used to document savings, and not for market

284 assessments, potential studies, or other types of studies that do not serve to document

285 program savings.

286 4. Direct ICC staff to host a workshop to consider attributes of and appropriate

287 procedural vehicle for developing an effective regulatory framework.

288 4. Mandate regular reporting (monthly, quarterly, annual) containing the information

289 described above.

290 5. Identify, then define, four cost categories that would capture key distinct portfolio and

291 program activities including: administration, implementation, marketing and outreach,

292 and incentives.

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309 **Attachment A:**

310 **Principles and Guidelines**
311 **for the Advisory Demand-Side**
312 **Stakeholder Collaborative Process**

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314 **Overview**

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316 An inclusive, transparent, meaningful Advisory Demand-Side Stakeholder Collaborative
317 Process ("Advisory Process") is essential for fostering the success of the emerging
318 demand-side portfolio in Illinois, and helping demand-side options become viable and
319 cost-effective alternatives to conventional supply-side generation resources such as
320 coal and nuclear plants.

321
322 NRDC recommends the following principles and guidelines for the stakeholder process.

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324 **Stakeholder Collaborative Process Objectives**

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326 NRDC recommends the following objectives for the Advisory Demand-Side Stakeholder
327 Collaborative Process:

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329 Stakeholders shall be given the opportunity to advise the demand-side portfolio
330 administrators on portfolio and program objectives, and on the design, administration,
331 implementation and evaluation of the portfolio and programs to:

- 332
333 1. Help demand-side options become viable and cost-effective alternatives to
334 conventional supply-side generation resources;
335 2. Maximize benefits and minimize costs associated with the demand-side portfolio
336 and,
337 3. Monitor whether the portfolio and programs are meeting statutory and regulatory
338 objectives.

339
340 **Participants**

341
342 We recommend that the following participants be included in the Stakeholder Process:

343
344 **1. ComEd, Ameren, and DCEO**

345
346 The Advisory Process will be time-consuming and resource intensive if
347 participants are to provide meaningful and thoughtful input. Furthermore, many
348 of the programs should be statewide consistent to maximize benefit and minimize

costs and consumer confusion. Thus, we recommend that the Advisory Process include all three portfolio administrators.

2. Environmental Groups

Environmental Law and Policy Center, Environment Illinois, Natural Resources Defense Counsel

3. Consumer Groups

Citizens Utility Board

4. Energy Efficiency Stakeholders

Midwest Energy Efficiency Alliance, Center for Neighborhood Technology

5. State Government Representatives

ICC Staff, Attorney General's Office, Governor's Energy Advisor

6. Local Government Representatives

Metropolitan Mayors Caucus, City of Chicago

7. Trade Organizations

Illinois Industrial Energy Consumers, Building Operators and Managers Association

8. The Public

Members of the public should be permitted to attend meetings, observe and ask questions or provide comments if time permits.

Facilitation

NRDC agrees with ComEd that meetings should be facilitated by an individual accepted by all parties. If all parties can't agree, then the designated facilitator should be the person who receives support from the greatest number of parties.

Process

1. Before the Meeting

We recommend the following pre-meeting activities:

- Meeting Notice: Meetings shall be noticed by e-mail to the Service List for Docket No. 07 – 0540 and to members of the public who ask to be added to the meeting service list.
- Meeting Agenda: At least two weeks before the meeting, the meeting facilitator shall circulate a meeting agenda for review and comment. Participants may request that discussion items be added to the agenda.
- Meeting Materials: All meeting materials shall be circulated at least five business days before the meeting to allow time for meaningful review and comment. Participants may submit written questions to be addressed before the meeting or ask questions during the meeting on the meeting materials.
- Demand-Side Stakeholder Process Web Site: An Advisory Demand-Side Stakeholder Process Web Site will be established, and meeting agendas, materials, and post-meeting follow-up will be posted on the site for easy review and access.

2. During the Meeting

- Time Allocated for Discussion/Comment: At least one-third of the meeting time will be for comments and discussion by the Advisory Process members and members of the public. The remaining time may be used for presentations by the portfolio administrators.
- Public Discussion/Comment: Members of the public will be permitted to ask questions and provide comments during the discussion period. However, if the discussion period is limited, stakeholders will be given priority over members of the public to provide comments and ask questions.
- Follow-Up Issues, Questions, Action Items: All questions, issues and action items that are not resolved in the meeting will be transcribed for further follow-up.
- Meetings Not Transcribed: Meetings will not be transcribed.
- Polycom: The meetings should be transmitted by a polycom to permit remote participation by those who cannot participate in person.

3. Post Meeting Follow-Up

- Comment Tracking and Response System: Within ten business days of the meeting, the meeting facilitator will summarize issues raised, proposed action items, and questions that stakeholders raise. The meeting facilitator shall work with the portfolio administrators to prepare responses to all items. If the issue cannot be addressed or resolved within the ten business days, then the document will describe when and how the issue can be addressed or resolved. The portfolio administrators shall identify which items resulted in a modification to the portfolio or program elements.

The Comment Tracking and Response system will help demonstrate to stakeholders that their participation resulted in meaningful discussions and change.

Actions that Require Notice to the Advisory Process Members and an Opportunity for Comment

We recommend that Advisory Process members be given the opportunity to comment on the following for items:

1. Reallocating funds among program elements (such as between residential lighting to residential HVAC) where the change for any specific budget is greater than 20%;
2. Discontinuing approved program elements (such as discontinuing Single Family Home Energy Performance);
3. Adding new program elements;
4. Increasing the administration, implementation or marketing budget more than 20% above the original approved funding levels for any program element;
5. Adding or deleting program measures;
6. Reducing the incentive budget for any program element below the amount originally approved;
7. Change to whether a program is offered statewide or just by one portfolio administrator; and
8. Dismissing ComEd's evaluation contractor, and hiring a new contractor.

Annual Review

On an annual basis, the portfolio administrators will hire an independent evaluator to survey the Advisory Process members to assess whether the process is accomplishing the stated objectives, and to identify ways to improve the process to make it more efficient, transparent and impactful.

**Advisory Demand-Side Stakeholder Collaborative Process
Comment Tracking and Response System**

Meeting Date:

Meeting Attendees (including organizational and contact information):

Meeting Facilitator:

| Issue, Question or Action Item <ul style="list-style-type: none">Including person/party who raised item | Response <ul style="list-style-type: none">Proposed resolution orTimeline and process for resolving issue | Resulting Impact on Demand-Side Portfolio or Program <ul style="list-style-type: none">Was change made to portfolio or program as result of issue?How? |
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